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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

**RORI RIDLEY,
 INDIVIDUALLY AND ON
 BEHALF OF ALL OTHERS
 SIMILARLY SITUATED,**

PLAINTIFFS,

V.

**NATIONWIDE GENERAL
 INSURANCE COMPANY,**

DEFENDANT

CASE NO.: '12CV2069 CAB RBB

CLASS ACTION

COMPLAINT FOR DAMAGES
 AND INJUNCTIVE RELIEF
 PURSUANT TO THE
 TELEPHONE CONSUMER
 PROTECTION ACT, 47 U.S.C §
 227 ET SEQ.

JURY TRIAL DEMANDED

INTRODUCTION

1. RORI RIDLEY ("Plaintiff") brings this class action for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of NATIONWIDE GENERAL INSURANCE COMPANY and its related entities, subsidiaries and agents ("Defendant") in negligently, knowingly, and/or willfully

1 contacting Plaintiff on Plaintiff's cellular telephone, in violation of the Telephone
2 Consumer Protection Act, 47 U.S.C. § 227 et seq., ("TCPA"), thereby invading
3 Plaintiff's privacy. Plaintiff alleges as follows upon personal knowledge as to herself and
4 her own acts and experiences, and, as to all other matters, upon information and belief,
5 including investigation conducted by her attorneys.

6 JURISDICTION AND VENUE

- 7 1. Jurisdiction is proper pursuant to 28 U.S.C. § 1331.
- 8 2. Venue is proper in the United States District Court for the Southern District of California
9 pursuant to 18 U.S.C. § 1391(b) and 1441(a) because the events giving rise to Plaintiff's
10 causes of action against Defendant occurred within the State of California and Defendants
11 conducts business in the County of San Diego.

12 PARTIES

- 13 2. Plaintiff is, and at all times mentioned herein was, an individual citizen and resident of
14 the State of California.
- 15 3. Plaintiff is informed and believes, and thereon alleges, that Defendant is, and at all times
16 mentioned herein was, a corporation whose primary corporate address is One Nationwide
17 Plaza, Columbus, OH 43215. Defendant is, and at all times mentioned herein was, a
18 corporation and a "person," as defined by 47 U.S.C. § 153 (10). Plaintiff is informed and
19 believes, and thereon alleges, that at all times relevant Defendant conducted business in
20 the State of California and in the County of San Diego.

21 FACTUAL ALLEGATIONS

- 22 3. On or about February 14, 2012 Plaintiff received a telephone call on her cellular telephone
23 in the evening hours from Defendant where Defendant used "an artificial or prerecorded
24 voice" as prohibited by 47 U.S.C. § 227 (b)(1)(A).
- 25 4. The automated message stated that Plaintiff qualified for a program for people with traffic
26 tickets. Plaintiff had happened to get a traffic ticket prior to this incident. Plaintiff
27 followed the automated cues until she reached a live operator. When Plaintiff asked how
28 and why Defendant was calling her with an automated dialer on her cell phone, the

1 Defendant's representative stated sometimes people's cellular telephone numbers get on
2 their list. Plaintiff requested to be removed from any such list.

3 5. The telephone number Defendant called was assigned to a cellular telephone service for
4 which Plaintiff incurs a charge for incoming calls pursuant to 47 U.S.C. § 227 (b)(1).

5 6. Plaintiff had never done any business with Defendant in the past and had never given her
6 cellular telephone number to the Defendant.

7 7. This telephone call constituted a call that was not for emergency purposes as defined by
8 47 U.S.C. § 227 (b)(1)(A)(i).

9 8. Plaintiff did not provide express consent to Defendant to receive calls on Plaintiff's
10 cellular telephone, pursuant to 47 U.S.C. § 227 (b)(1)(A).

11 9. Plaintiff did not provide "prior express consent" to Defendant to place telephone calls to
12 Plaintiff's cellular phone with an artificial or prerecorded voice as proscribed under 47
13 U.S.C. § 227(b)(1)(A).

14 10. This telephone call by Defendant was in violation of 47 U.S.C. § 227(b)(1).

15 CLASS ACTION ALLEGATIONS

16 11. Plaintiff brings this action on behalf of herself and on behalf of and all others similarly
17 situated ("the Class").

18 12. Plaintiff represents, and is a member of, the Class, consisting of all persons within the
19 United States who received any telephone call from Defendant or its agent/s and/or
20 employee/s to said person's cellular telephone made through the use of any automatic
21 telephone dialing system or with an artificial or prerecorded voice, which call was not
22 made for emergency purposes or with the recipient's prior express consent, within the
23 four years prior to the filing of this Complaint.

24 13. Defendant and its employees or agents are excluded from the Class. Plaintiff does not
25 know the number of members in the Class, but believes the Class members number in the
26 tens of thousands, if not more. Thus, this matter should be certified as a Class action to
27 assist in the expeditious litigation of this matter.
28

14. Plaintiff and members of the Class were harmed by the acts of Defendant in at least the following ways: Defendant illegally contacted Plaintiff and the Class members via their cellular telephones thereby causing Plaintiff and the Class members to incur certain cellular telephone charges or reduce cellular telephone time for which Plaintiff and the Class members previously paid, by having to retrieve or administer messages left by Defendant during those illegal calls, and invading the privacy of said Plaintiff and the Class members. Plaintiff and the Class members were damaged thereby.
15. This suit seeks only damages and injunctive relief for recovery of economic injury on behalf of the Class and it expressly is not intended to request any recovery for personal injury and claims related thereto. Plaintiff reserves the right to expand the Class definition to seek recovery on behalf of additional persons as warranted as facts are learned in further investigation and discovery.
16. The joinder of the Class members is impractical and the disposition of their claims in the Class action will provide substantial benefits both to the parties and to the court. The Class can be identified through Defendant's records or Defendant's agents' records.
17. There is a well-defined community of interest in the questions of law and fact involved affecting the parties to be represented. The questions of law and fact to the Class predominate over questions which may affect individual Class members, including the following:
- a. Whether, within the four years prior to the filing of this Complaint, Defendant made any call (other than a call made for emergency purposes or made with the prior express consent of the called party) to a Class member using any automatic telephone dialing system or an artificial or prerecorded voice to any telephone number assigned to a cellular telephone service.
 - b. Whether Plaintiff and the Class members were damaged thereby, and the extent of damages for such violation; and
 - c. Whether Defendant should be enjoined from engaging in such conduct in the future.

18. As a person that received numerous calls using an automatic telephone dialing system or an artificial or prerecorded voice, without Plaintiff's prior express consent, Plaintiff is asserting claims that are typical of the Class. Plaintiff will fairly and adequately represent and protect the interests of the Class in that Plaintiff has no interests antagonistic to any member of the Class.
19. Plaintiff and the members of the Class have all suffered irreparable harm as a result of the Defendant's unlawful and wrongful conduct. Absent a class action, the Class will continue to face the potential for irreparable harm. In addition, these violations of law will be allowed to proceed without remedy and Defendant will likely continue such illegal conduct. Because of the size of the individual Class member's claims, few, if any, Class members could afford to seek legal redress for the wrongs complained of herein.
20. Plaintiff has retained counsel experienced in handling class action claims and claims involving violations of the Telephone Consumer Protection Act.
21. A class action is a superior method for the fair and efficient adjudication of this controversy. Class-wide damages are essential to induce Defendant to comply with federal and California law. The interest of Class members in individually controlling the prosecution of separate claims against Defendant is small because the maximum statutory damages in an individual action for violation of privacy are minimal. Management of these claims is likely to present significantly fewer difficulties than those presented in many class claims.
22. Defendant has acted on grounds generally applicable to the Class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the Class as a whole.

FIRST CAUSE OF ACTION
NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. § 227 *ET SEQ.*

23. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

24. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 *et seq.*

25. As a result of Defendant's negligent violations of 47 U.S.C. § 227 *et seq.*, Plaintiff and The Classes are entitled to an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

26. Plaintiff and the The Classes are also entitled to and seek injunctive relief prohibiting such conduct in the future.

**SECOND CAUSE OF ACTION
KNOWING AND/OR WILLFUL VIOLATIONS OF THE
TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. § 227 *ET SEQ.***

27. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

28. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 *et seq.*

29. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 *et seq.*, Plaintiff and each of the The Classes are entitled to treble damages, as provided by statute, up to \$1,500.00, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

30. Plaintiff and the The Classes are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests the Court grant Plaintiff and The Class members the following relief against Defendant:

**FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF
THE TCPA, 47 U.S.C. § 227 *ET SEQ.***

- As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for herself and each Class and Subclass member \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- Any other relief the Court may deem just and proper.

**SECOND CAUSE OF ACTION FOR KNOWING AND/OR WILLFUL VIOLATION
OF THE TCPA, 47 U.S.C. § 227 *ET SEQ.***

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for herself and each Class and Subclass member treble damages, as provided by statute, up to \$1,500.00 for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- Any other relief the Court may deem just and proper.

TRIAL BY JURY

Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiffs are entitled to, and demand, a trial by jury.

Date: August 21, 2012

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